



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 6280-99

14 January 2000

MAJ [REDACTED] SMCR
[REDACTED]
[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has modified your Master Brief Sheet to show reviewing officer nonconcurrence with your reporting senior in your fitness report for 1 January to 31 December 1996.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) in your case, dated 4 October 1999, the advisory opinion from the HQMC Personnel Management Support Branch, dated 22 October 1999, and the three advisory opinions from the HQMC Reserve Affairs Division (RAM), dated 29 October 1999, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. They found the opening statement, in your contested fitness report for 11 July 1993 to 31 March 1994, that you are "a sincere officer who means well and applies himself diligently" does not imply that you were a weak officer. They were unable to find that you were not counseled before you received this fitness report. In any event, they generally do not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such when it is provided. They also substantially concurred with the advisory opinions from RAM in

concluding that no relief is warranted from your failure by the Fiscal Year 2000 Active Reserve Lieutenant Colonel Selection Board. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6280-99

IN REPLY REFER TO:
1610
MMER/PERB
OCT 04 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] USMCR

Ref: (a) Major [REDACTED] DD Form 149 of 22 Jul 99
(b) MCO P1610.7D w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 27 September 1999 to consider Major [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 930711 to 940331 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the report does not accurately reflect his performance during the stated period. He also alleges that Lieutenant Colonel [REDACTED] was not objective in his evaluation and that the fitness report "unjustly tarnishes" his record and was a significant contributor to his recent failure of selection. To support his appeal, the petitioner furnishes his own detailed account of the events/circumstances during the reporting period, as well as letters from Lieutenant Colonels [REDACTED] and [REDACTED] and Major [REDACTED] and [REDACTED].

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. While the four advocacy statements furnished with reference (a) convey a less than amicable relationship between the Detachment A Executive Officer (Maj [REDACTED]) and the petitioner, the Board is haste to point out that the report was written by the Commanding Officer (Lieutenant Colonel [REDACTED]). To what extent Major [REDACTED] allegedly prejudiced or influenced Lieutenant Colonel [REDACTED] is unsupported speculation, and can only be answered by Lieutenant Colonel [REDACTED] himself.

b. Despite the assertions and inferences narrated by the petitioner, the degree of specificity included in any given performance evaluation is left to the discretion of the reporting officials. In this case, the Reporting Senior made numerous references to the accomplishments and accolades received by the

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] SMCR

petitioner. While he may believe that he was not given due credit for his numerous contributions, the amount of detail remains within the purview of the Reporting Senior.

c. The petitioner's contention that his receipt of a Navy and Marine Corps Commendation Medal for his entire tour with MAG-46 Det A serves as an indicator that the report is unjust and "out of place" is considered without merit. The report is an overall "outstanding" evaluation of performance and accomplishments during that finite period and is in no way contradicted by the awarding of the Navy and Marine Corps Commendation Medal.

d. As a final matter, the Board observes that the perceived competitiveness of this (or any) fitness report is not germane in determining whether or not it should remain a part of an official record. In this regard, the PERB states its position that it cannot and does not operate under the premise that a failure to be selected for promotion constitutes grounds for removing an administratively correct and factually accurate fitness report. To do so would breach the integrity and viability of the entire Performance Evaluation System.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of [REDACTED]'s official military record.

5. The case is forwarded for final action.

[REDACTED]

Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
PERSONNEL MANAGEMENT SUPPORT BRANCH (MMSB)
2008 ELLIOT ROAD
QUANTICO, VA 22134-5030

6280-99
IN REPLY REFER TO

1610
MMSB-30

22 OCT 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: ADVISORY OPINION, CASE OF [REDACTED]

1. As a result of [REDACTED] request in June 1999, his Master Brief Sheet (MBS) was corrected on 30 July 1999. A current MBS at Tab A reflects the reviewing officer nonconcurred with the evaluation for the period 960101 to 961231 (AR). The X in the lower right corner of the far right CAD/OQF column symbolizes that fact.
2. [REDACTED] wrong in his interpretation that because the reviewing officer (RO) ranks him as 2 of 5 on the report in question, vice the reporting senior's (RS) 5 of 5 ranking, that his overall ranking now changes. The automated fitness report system data base that creates the MBS only records the RS's ranking; not the RO's ranking. However, since the source document for fitness reports for all selection boards are the copies posted in Marines' Official Military Files, there was no significant error in [REDACTED] performance records.

[REDACTED]
[REDACTED]
[REDACTED]
Head, Personnel Management Support Branch
(MMSB)



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6280-99

1100N REPLY REFER TO:
RAM/CMT
29 Oct 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR THE CORRECTION
OF NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED] 1526
[REDACTED]

Ref: (a) BCNR request for Advisory Opinion of 7 Oct 99

1. Per your request, we have reviewed [REDACTED]'s request and offer the following comments.

a. [REDACTED]'s request was reviewed by the Performance Evaluation review Board (PERB), which determined that the contested fitness report for the period 930711 to 940331 (CH) was administratively correct and factually accurate. The PERB's opinion was that the contested report should remain in the record.

b. As [REDACTED]'s record has not changed, there are no grounds for a Special Selection Board in this case. It is therefore recommended that his request for "promotional reconsideration" be disapproved.

2. Point of Contact within the Reserve Career Management Team is [REDACTED] at (703) [REDACTED]

[REDACTED]
U.S. Marine Corps Reserve
Head, Personnel Management Branch
Reserve Affairs Division
By direction of the
Commandant of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6280-99

IN REPLY REFER TO:

1100
RA/CMT
29 Oct 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR THE CORRECTION
OF NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF [REDACTED]

1. Per your request, we have reviewed [REDACTED] request and offer the following comments:

a. Maj [REDACTED] request was reviewed by the Performance Evaluation Review Board (PERB), which determined that the contested fitness report for the period 930711 to 940331 (CH) was administratively correct and factually accurate. The PERB's opinion was that the contested report should remain in the record.

b. As Major [REDACTED] record has not changed, there are no grounds for a Special Selection Board in this case. It is therefore recommended that his request for "promotional reconsideration" be disapproved.

2. Point of contact within the Reserve Career Management team is [REDACTED] at (703) [REDACTED]

[REDACTED]
LtCol, U. S. Marine Corps
Head, Career Management Team
Reserve Affairs Division